

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

CHAD CURTIS WHITE,

Defendant-Appellant.

UNPUBLISHED

October 17, 2006

No. 262084

Monroe Circuit Court

LC No. 04-033882-FC

Before: Hoekstra, P.J., and Meter and Donofrio, JJ.

HOEKSTRA, P.J., (*concurring in part and dissenting in part*).

I respectfully disagree with the majority that evidence of the police chase that led to defendant's arrest falls within the res gestae exception to MRE 404(b) evidence as articulated in *People v Sholl*, 453 Mich 730, 740-742; 556 NW2d 851 (1996), because the chase occurred more than two days after the bank robbery was committed and was unrelated to the investigation of that crime. See *People v Castillo*, 82 Mich App 476, 479; 266 NW2d 460 (1978) ("acts, conduct and demeanor of a person charged with a crime at the time of, or *shortly* before or after the offense is claimed to have been committed, may be shown as part of the res gestae"), quoting *People v Savage*, 225 Mich 84, 86; 195 NW 669 (1923) (emphasis added).

Nonetheless, I concur in affirming defendant's conviction. As noted by the majority, "[a] 'prosecutor's good-faith effort to admit evidence does not constitute misconduct,'" and there is no basis on this record "to conclude that the prosecutor offered this evidence in bad faith." *Ante* at 1, 2, quoting *People v Ackerman*, 257 Mich App 434, 448; 669 NW2d 818 (2003). Moreover, given the overwhelming evidence of defendant's guilt in this case, it cannot be said that defendant's substantial rights were affected by this unpreserved claim of error, or that such error "seriously affected the fairness, integrity or public reputation of [the] proceedings." See *People v Hawkins*, 245 Mich App 439, 453-456; 628 NW2d 105 (2001), quoting *People v Carines*, 460 Mich 750, 774; 597 NW2d 130 (1999).

/s/ Joel P. Hoekstra